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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,566	11/20/2003	Martin Cousineau	672-B01.US	7047

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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,566

Applicant(s)

COUSINEAU, MARTIN

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 16-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The amendment filed 2/2/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The disc spring being made out of stainless steel material.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

Claim 23 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 23 recites, "the disc spring is made out of stainless steel material"; however, the original disclosure of the instant application fails to provide support to this statement. Further, the original disclosure is silent as to the material of the disc spring.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 22 recites, "a plate being hingeably connected to the first looped end, the plate being continuous with the loop when disposed around the hose as to substantially close off a gap located in between the first and second looped ends"; however, it is unclear to the Examiner how the plate can simultaneously be continuous and hingeably connected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 5299344, Oetiker in view of US patent 2659954, Woolsey.

In regards to claim 1, Oetiker disclose a heavy duty clamp for a hose, the clamp including a loop for disposing around the hose and having first and second axially spaced apart looped ends (23, 33), the clamp comprising:

- a force generator (40), for drawing together the first and second looped ends, and connected to the first and second looped ends, the force generator including at least one spring (44) mounted thereon and made out of steel material so as to allow substantially high and constant clamping force from the force generator under operational condition of the clamp; and
- a spacer member (41) mounted on the force generator between the spring and the first looped end for axially transferring the clamping force from the force

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generator to the first and second looped ends, the clamping force axially drawing together the first and second looped ends so as to clamp the hose. Oetiker does not disclose a disc spring. Woolsey teaches a disc spring (34) "to provide spring loading of substantially zero deflection rate" (col. 4, lines 68-69). As Woolsey relates to band clamps, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a disc spring to provide spring loading of substantially zero deflection rate, as taught by Woolsey.

In regards to claim 2, Oetiker discloses the first looped end includes a first outer face and a first inner face, and the second looped end includes a second outer face and a second inner face, the first and second outer faces being angled inwardly towards each other and the first and second inner faces being curved and disposed inwardly towards each other.

In regards to claim 3, Oetiker discloses the first looped end including first and second holes located in the respective first outer and inner faces and the second looped end includes third and fourth holes located in the respective second outer and inner faces, the holes being axially aligned with each other.

In regards to claim 4, Oetiker discloses the force generator including a bolt having a first bolt end and a second bolt end, the bolt passing through the first, second, third and fourth holes.

In regards to claim 5, Oetiker discloses the bolt including a threaded portion and a non-threaded portion, the non-threaded portion extending through and away from the first looped end.

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In regards to claim 6, Oetiker in view of Woolsey disclose the disc spring and the spacer member being slidably mounted on the non-threaded portion, the disc spring being located near the first bolt end.

In regards to claim 7, Oetiker in view of Woolsey disclose the force generator further including a first capture nut mounted in the first looped end and a second capture nut mounted in the second looped end.

In regards to claim 8, Oetiker in view of Woolsey disclose the first capture nut including a non-threaded axial bore.

In regards to claim 9, Oetiker in view of Woolsey disclose the second capture nut including a threaded axial bore.

In regards to claim 10, Oetiker in view of Woolsey disclose the first and second capture nuts each including a curved end and a stem portion.

In regards to claim 11, Oetiker in view of Woolsey disclose the spacer member including a cylindrical collar with an axial bore sized to accommodate the bolt therein, the cylindrical collar having a force receiver end and a force transfer end.

In regards to claim 12, Oetiker in view of Woolsey disclose the stem portion of the first capture nut being disposed towards the first hole of the first looped end and abuts the force transfer end.

In regards to claim 16, Oetiker discloses the second bolt end including a stop.

In regards to claim 17, Oetiker discloses the stop being a lock nut, a Stover nut or a nylon insert nut.

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In regards to claim 18, Oetiker discloses the Stover nut or the nylon insert nut being integral with the stem portion of the second capture nut.

In regards to claim 19, Oetiker discloses the first hole of the first looped end being larger than the second hole of the first looped end.

In regards to claim 20, Oetiker discloses the clamp loop, when viewed in cross section, including a planar portion and two ends that are angled away from the surface of the hose.

In regards to claim 21, Woolsey discloses a plurality of paired disc springs.

In regards to claim 22, as best understood, Oetiker discloses a plate being hingeably connected to the first looped end, the plate being continuous with the loop when disposed around the hose as to substantially close off a gap located in between the first and second looped ends.

In regards to claim 23, Oetiker discloses the disc spring being made out of stainless steel material.

In regards to claim 24, as best understood, Oetiker discloses the plate including a guide portion for guiding the moveable first and second looped ends when moving towards and away from each other during clamping.

Response to Arguments

Applicant's arguments filed 2/2/2005 have been fully considered but they are not persuasive. The Applicant argues that neither Oetiker '344 nor Woolsey '954 disclose the clamp or the disc spring being made out of stainless steel material. The Examiner disagrees. In the Applicant's arguments, the Applicant clearly identifies in Oetiker '344

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and Woolsey '954 the clamp and the disc spring being made out of stainless steel material. Therefore, Oetiker and Woolsey meet the claim limitations.

The Applicant argues Oetiker does not mention or suggest any consideration or need of a generally constant clamping force. The Examiner disagrees, because a clamp inherently has a generally constant clamping force by its design. Therefore, Oetiker meets the claim limitation.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, As Woolsey relates to band clamps, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a disc spring to provide spring loading of substantially zero deflection rate, as taught by Woolsey.

In response to applicant's argument that Woolsey is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this

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case, both Oetiker and Woolsey are both in the field of endeavor of band clamps for hoses and pipes.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M. Dunwoody
Primary Examiner
Art Unit 3679

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